

**Hearing Date: February 4, 2019 at 10:00 a.m.
Objection Deadline: January 26, 2019 at 4:00 p.m.**

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : **Chapter 11**
:
SEARS HOLDING CORPORATION, et al., : **Case No. 18-23538 (RDD)**
:
: **(Jointly Administered)**
Debtors¹. :
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**OBJECTION OF THE NIELSEN COMPANY (US), LLC
TO DEBTORS' NOTICE OF CURE COSTS AND POTENTIAL
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES IN CONNECTION WITH GLOBAL SALE TRANSACTION**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innoval Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179

The Nielsen Company (US), LLC and related affiliates (“Nielsen”), by and through undersigned counsel, files this objection and reservation of rights (the “Cure Objection”) to the Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction filed by the debtors and debtors-in-possession (collectively, the “Debtors”) on January 18, 2019 (the “Cure Notice”) [Doc. No. 1731], and in support thereof, respectfully states as follows:

Objection

1. Nielsen and Sears Holdings Management Corporation (“Sears Holdings Management”) are party to certain pre-petition executory contracts, including: (i) that certain Master Service Agreement dated as of April 29, 2009 (the “MSA”); (ii) that certain Local Service Agreement Number ACNUS-1 dated as of April 29, 2009 and signed by Sears Holdings Management on August 6, 2009 (the “LSA”); and (iii) that certain Nielsen Service Agreement dated as of September 1, 2013 (the “Service Agreement” and collectively with the MSA, the LSA and all other supporting or related agreements, amendments, addendums, exhibits, and/or schedules to each of the foregoing, the “Nielsen Service Agreements”).
2. As of October 15, 2018 (the “Petition Date”), the amount of \$156,453.00 was due and payable to Nielsen pursuant to the Nielsen Service Agreements.
3. In total, the Debtors are in default, at a minimum, in the amount of \$156,453.00.
4. In the Cure Notice, the Debtors notified Nielsen that the Nielsen Service Agreements may be assumed by the Successful Bidder in connection with the Global Asset Sale Transaction (each term as defined in the Cure Notice).
5. The Cure Notice fixes the cure amount due under each of the Nielsen Service Agreements at “\$0.00,” which is inaccurate.

6. For the Debtors to assume and assign any executory contract or unexpired lease, the Debtors must cure any amounts outstanding thereunder pursuant to 11 U.S.C. § 365 and provide adequate assurance of future performance. *See* 11 U.S.C. § 365(b)(1).

7. To the extent the Debtors cure all amounts currently owing, or that will become due post-petition until the date of assumption and cure, under the Nielsen Service Agreements and provide adequate assurance of future performance, Nielsen has no objection to the assumption of the Nielsen Service Agreements. However, because certain amounts are presently outstanding, and additional amounts may become outstanding prior to assumption, under the Nielsen Service Agreements, Nielsen files this limited objection to ensure that it receives cure of such defaults under the Nielsen Service Agreements pursuant to 11 U.S.C. § 365(b) upon assumption of the Nielsen Service Agreements. As set forth above, Nielsen estimates that its cure is no less than \$156,453.00.

Reservation of Rights

8. Nielsen reserves the right to modify, supplement and/or amend this limited objection as further information becomes available, including as to any additional amounts that may become due prior to the assumption date.

WHEREFORE, Nielsen objects to the proposed assumption of the Nielsen Service Agreements and requests that the Court enter an order consistent with this limited objection and grant Nielsen such further relief as the Court deems appropriate.

Dated: January 25, 2019
New York, New York

/s/ Patrick L. Hayden
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